



10-13-05

3627

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GILSON
& LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Kerker, et al.

Appln. No.: 09/714,774

Filed: November 16, 2000

For: SYSTEM AND METHOD FOR
MANAGING RECURRING ORDERS IN
A COMPUTER NETWORK

Examiner: Fischer, Andrew J.

Art Unit: 3627

Attorney Docket No: 9974/55 (Alticor Ref. BH2092)

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Fifth Supplemental Information Disclosure Statement
☒ Return Receipt Postcard

Fee calculation:

- ☐ No additional fee is required.
☐ Small Entity.
☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
☒ A petition or processing fee in an amount of \$180.00 under 37 C.F.R. § 1.17(p).
☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			X100=			x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=			+ \$360=	
					Total	\$		Total	\$

Fee payment:

- ☒ A check in the amount of \$180.00 is enclosed.
☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

October 12, 2005
Date

James L. Katz (Reg. No. 42,711)



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FIFTH SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56, it is respectfully requested that this Fifth Supplemental Information Disclosure Statement be entered.

By submitting this Statement, Applicants are attempting to fully comply with the duty of candor and good faith mandated by 37 C.F.R. §1.56. As such, this Statement is not intended to constitute an admission that any of the enclosed references, or other information referred to therein, constitutes "prior art" or is otherwise "material to patentability," as that phrase is defined in 37 C.F.R. §1.56(a).

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As stated in the executed 37 C.F.R. § 1.63 oath/declaration, filed on November 12, 2001 in the above-referenced non-provisional patent application, the inventive entity set forth in the above-referenced application is William S. Kerker, Thomas D. Paasche, Dave Bamborough, Randy S. Bancino, Robin Horder-Koop, Kenneth J. McDonald, John P. Parker, and Claire Zevalkink. Pursuant to 37 C.F.R. § 3.73(b), Quixtar Investments, Inc. ("Assignee"), by virtue of an assignment from the named inventors, is the assignee of the above-referenced patent application.

In 2002, Mr. Scotty Michaels and Ms. M.J. Michaels contacted the Assignee alleging that they had contributed inventive concepts to the above-referenced patent application. In response thereto, the Assignee conducted a thorough investigation to verify the correct inventorship of the above-referenced application which was confirmed by the named inventors to be the inventive entity set forth in the executed 37 C.F.R. § 1.63 oath/declaration of November 12, 2001. Accordingly, it was concluded that neither Mr. Scotty Michaels nor Ms. M.J. Michaels contributed to the claimed invention of the above-referenced application, and the Michaels were informed accordingly. Nonetheless, in May of 2005, the Michaels revived this issue by filing a complaint and request for an informal conciliation meeting with the Assignee under a contractually required arbitration proceeding. The Michaels' complaint again alleged that they had contributed to the claimed invention of the above-referenced application. Prior to the conciliation meeting, the Michaels were contacted to provide any evidence they had to support their claim. In response, the Michaels failed to provide the requested evidence and subsequently dropped their complaint and request for conciliation meeting.

Both the Applicants and the Assignee maintain that the inventorship, as specified by the executed 37 C.F.R. § 1.63 oath/declaration of November 12, 2001, is proper. Furthermore, Applicants are not withholding any information that would be pertinent to the determination of inventorship.

Applicants have calculated a processing fee in the amount of \$180.00 to be due under 37 C.F.R. §1.17(p) in connection with the filing of this Statement. Applicants have enclosed a check covering this fee, or authorized charging the fee to a deposit account or credit card, as indicated in the Transmittal accompanying this Statement.

Respectfully submitted,

October 12, 2005
Date



James L. Katz (Reg. No. 42,711)